

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	NO. 3:15-cr-00069
)	JUDGE SEAN F. COX
GEORGE DAVID GEORGE)	
)	

**GOVERNMENT’S SUPPLEMENTAL NOTICE AND MOTION IN LIMINE TO ADMIT
EVIDENCE**

The United States, by and through the undersigned Assistant United States Attorney, hereby supplements its original notice and motion in limine regarding the defendant’s use of victims’ credit cards (D.E. 90) to add WellCity investors Brenda Wilhoite and Gary Austin. Since its original filing, and in the course of preparing for trial in this case, the Government has learned that the defendant also made numerous unauthorized charges to these two victims’ credit cards.

I. Background

The defendant is charged with crimes stemming from his scheme to use his company, WellCity, to defraud investors and lenders, between March 2011 and April 2014. *See generally* D.E. 70 (superseding indictment). Brenda Wilhoite and Gary Austin are among the victims who loaned the defendant money and /or invested in WellCity.

a. Brenda Wilhoite

Brenda Wilhoite worked at the same residential real estate firm as the defendant’s wife. At the time of the defendant’s fraud on Ms. Wilhoite, she was best friends with the defendant’s wife and had recently received a settlement payment from a car crash. The defendant approached

Wilhoite about making a short-term loan to him in relation to his work with WellCity, promised her that she bore no risk and also promised a favorable rate of return. The repayment date on the loan came and went but the defendant did not repay Ms. Wilhoite.

At some point thereafter, the defendant convinced Ms. Wilhoite that if she purported to be a WellCity employee and opened a credit card in her name and the name of WellCity, she could recoup her loan by making charges to the card that WellCity would then pay off by making payments on the card. In fact, once Wilhoite opened a WellCity credit card in her name, the defendant used the card to make tens of thousands of dollars in charges in her name. Neither the defendant, nor WellCity, made payments on the credit card.

b. Gary Austin

Gary Austin met the defendant through his friend, Scot Holloway (another WellCity investor and victim in this case). Between 2011 and 2014, Austin invested hundreds of thousands of dollars with the defendant and WellCity. Austin watched numerous “repayment” dates come and go without receiving any money. During the same period, the defendant continued to solicit more money from him. The defendant often promised Austin that a little more money would allow him (the defendant) to “close the deal” and repay Austin.

At some point during the course of the defendant’s fraud on Austin, Austin provided the defendant his credit card information. George led Austin to believe that the credit card would be used to pay for legal fees associated with “closing a deal.” In fact, defendant used Austin’s credit card to make numerous unauthorized charges including commercial airline flights from Nashville to Las Vegas, Nevada.

II. Discussion

For the same reasons stated in the Government's Notice and Motion in Limine (D.E. 90), the evidence set out above is intrinsic to the defendant's scheme to defraud victims. Further, the evidence clearly demonstrates the defendant's intent and plan to defraud the victims in this case, including Brenda Wilhoite and Gary Austin, and is therefore admissible under Fed. R. Evid. 404(b). Finally, as set out in D.E. 90, this evidence is more probative than prejudicial, and therefore admissible under Fed. R. Evid. 403.

III. Conclusion

WHEREFORE, the Government respectfully moves the Court to admit at trial in the above-captioned matter the credit card evidence as set out above and, hereby provides notice of its intent to use said evidence in its case-in-chief. This evidence is admissible under the res geste doctrine as well as to prove the defendant's intent and plan under Fed. R. Evid. 404(b).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing document has been served through the electronic case filing system upon Peter J. Strianse, counsel for the defendant upon this 24th day of April 2017.

s/ Henry C. Leventis

HENRY C. LEVENTIS

Assistant United States Attorney